

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8499 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

KHANT DARBAR JAMKA BHIMA DETAINED IN BHUJ DISTRICT JAIL

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR SS PATEL AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 09/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 19th September, 1998 made by the District Magistrate, Junagadh, under the powers conferred upon him

under Sub-section 1 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as , 'the Act'].

3. The petitioner is alleged to be a 'bootlegger' within the meaning of Section 2 (b) of the Act. As many as 12 offences punishable under the Bombay Prohibition Act have been registered against the petitioner during the period from 14th March, 1996 to 25th July, 1998. Out of the said twelve offences, ten offences are pending trial. In each of the said cases, petitioner was found to be in possession of large quantity of country liquor, liquor wash and other paraphernalia. Four persons, on assurance of anonymity, have given statements in respect of the anti-social activities of the petitioner. The petitioner's activities are thus found to be prejudicial to the maintenance of public order.

4. The impugned order of detention has been challenged on several grounds. The only ground which requires consideration is : the representation made against the impugned order of detention to the detaining authority has not been expeditiously dealt with. It is submitted that a friend of the petitioner had made a representation to the detaining authority on 5th October, 1998 and had requested the detaining authority to forward the same to the State Government as well as the Advisory Board. It is alleged that the said representation was not attended to promptly. The detaining authority has not controverted the contention. However, I am informed that the representation of 5th October, 1998 was delivered in the office of the detaining authority on 7th October, 1998 and was forwarded to the State Government on 13th October, 1998. The period between 7th October, 1998 and 13th October, 1998 has not been explained. It must, therefore, be held that the representation made against the order of detention was not attended to expeditiously by the detaining authority. The continued detention of the petitioner is, therefore, illegal.

5. The petition is allowed. The impugned order dated 19th September, 1998 is quashed and set-aside. Rule is made absolute. Petitioner, unless is required to be detained in some other case, be released forthwith.
